

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

*IN RE CATTLE AND BEEF ANTITRUST
LITIGATION*

Case No. 20-cv-1319 (JRT/HB)

This Document Relates To:

All Actions

PLAINTIFFS' MOTION TO COMPEL DOCUMENTS

Plaintiffs respectfully move this Court, pursuant to Rule 26 of the Federal Rules of Civil Procedure, for an order compelling Defendants to produce documents in accordance with the following:

1. Responsive documents from the following relevant time periods unless agreed or ordered by the Court in relation to a specific request:
 - a. **Structured data:** January 1, 2006 to December 31, 2021. Included in this category are unstructured documents necessary to understand structured data (*e.g.*, data dictionaries).
 - b. **Unstructured data:** January 1, 2012 to June 30, 2020.
2. Responsive documents relating to “Other Packers” in response to Cattle Requests 4 and 17(a); Consumer Request 2; and DPP Requests 3 and 4(a).
3. In response to Cattle Request 3, Consumer Request 3 and DPP Request 24(a):
 - a. productions made to the DOJ, State Attorneys General, and USDA before the close of fact discovery here in relation to these three regulators’ existing investigations into the unlawful conduct alleged in Plaintiffs’ complaints;

- b. written submissions or discovery submitted in response to any merger inquiry into National Beef's acquisition of Iowa Premium and/or JBS's acquisition of the U.S. assets of XL Foods;
- c. the regulatory requests for information or documents that are responsive to Plaintiffs' requests; and
- d. written interrogatory-style responses or presentations given or made in response to responsive regulatory requests.

4. Concluded contracts for the purchase of fed cattle for harvest in the U.S. or sale of Beef from a U.S. location found through a reasonable search of Defendants' agreed or ordered custodial and non-custodial sources, and any known central repository of executed contracts, in response to Cattle Requests 8 and 9; Consumer Requests 6, 7 and 20; and DPP Request 35.

5. As regards the Tyson Defendants, Cargill Defendants and National Beef, the following materials in response to Cattle Request 16 and DPP Request 5: Documents and communications in the possession of Your document custodians concerning any Trade Association meeting or conference (*e.g.*, NAMI's annual Meat Conference), Industry Meeting, and Investor Conference, or functions that were or may have been attended by any of Your Employees whose job function concerned Your cattle and/or beef business and constituting: (a) meeting announcements; (b) agendas; (c) minutes; (d) notes; (e) invitee and attendee lists; (f) handouts or presentations (including speaking notes, where applicable); (g) reports; (h) statistical bulletins; (i) correspondence; (j) expense reports related to attendance at these meetings; and (k) documents and communications concerning Your participation in those meetings.

6. As regards the Tyson Defendants, Cargill Defendants, and National Beef, responsive documents relating to “Other Packers” and “cattle/beef industry or financial analysts” in response to Cattle Requests 17(b) and DPP Request 4(b). Tyson Defendants shall also produce responsive documents relating to Employees and officers of Trade Associations.

7. The following materials in response to Cattle Request 17(g) and DPP Request 17(i):

- a. Copies of any transcripts or recordings of any testimony of the Document Custodian relating to Your or another packer’s Cattle Business, such as testimony at a deposition, trial, or public hearing, excluding those relating to testimony provided in: employment actions other than any claims arising from the issues pled in these actions; environmental actions; food safety actions; and disputes in which You or one of Your employees merely offered testimony related to the quality or grading of beef or cattle.

8. The following materials in response to Cattle Request 17(g):

- a. Any severance agreements in connection with the Document Custodian ceasing employment or changing employment status with You (without time limitation).

9. As regards the Tyson Defendants, Cargill Defendants and National Beef, the following materials in response to DPP Request 17(g):

- a. Documents concerning any performance evaluations, records, or disciplinary matters that relate to the allegations in the case, including cattle procurement, beef sales, live cattle futures, compliance with Your

antitrust/competition policies, or policies concerning contacts with competitors

10. Responsive documents relating to attempts to conceal: (a) anticompetitive conduct in related U.S. protein markets (broilers, pork and turkey); and (b) breaches of the Commodity Exchange Act or CME regulations as they apply to live cattle futures or options, in response to Consumer Request 10.

11. As regards JBS S.A.:

- a. Phone records associated with Mr. Wesley Batista's JBS-issued phone numbers in response to Consumer Request 4; and
- b. materials found in Mr. Batista's files that relate to the export of Beef or Cattle from the United States or the import of Beef or Cattle to the United States and that bear on pricing or output in the United States.

The grounds for this motion are set forth and supported in the accompanying Memorandum of Law, the Declaration of Patrick J. McGahan and the exhibits attached thereto, the arguments of counsel, and all of the papers and proceedings in this matter.

Dated: February 25, 2022

Respectfully submitted,

s/ Patrick J. McGahan

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CERTIFICATE OF SERVICE

I, Patrick J. McGahan, hereby certify that on February 25, 2022, I caused the foregoing to be filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the email addresses denoted on the Electronic Mail Notice List.

Executed on February 25, 2022, at Colchester, Connecticut.

s/ Patrick J. McGahan
Patrick J. McGahan (*pro hac vice*)